



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2023-0036; FRL-10790-01-R9]

#### Air Plan Revisions; California; Sacramento Metropolitan Air Quality Management

##### District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to partially approve and partially disapprove a revision to the Sacramento Metropolitan Air Quality Management District (SMAQMD) portion of the California State Implementation Plan (SIP) concerning the SMAQMD's demonstration regarding reasonably available control technology (RACT) requirements and negative declarations for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS or "standards") in the portion of the Sacramento Metropolitan nonattainment area under the jurisdiction of the SMAQMD. We are proposing action on a SIP revision under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Comments must be received on or before [Insert date 30 days after date of publication in the *Federal Register*].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2023-0036 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is

considered the official comment and should include discussion of all points you wish to make.

The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional

submission methods, please contact the person identified in the **FOR FURTHER**

**INFORMATION CONTACT** section. For the full EPA public comment policy, information

about CBI or multimedia submissions, and general guidance on making effective comments,

please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a

language other than English or if you are a person with disabilities who needs a reasonable

accommodation at no cost to you, please contact the person identified in the **FOR FURTHER**

**INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Eugene Chen, EPA Region IX, 75

Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4304 or by email at

*chen.eugene@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our”

refer to the EPA.

## **Table of Contents**

- I. The State’s Submittal
  - A. What documents did the State submit?
  - B. Are there other versions of these documents?
  - C. What is the purpose of the submitted documents?
- II. The EPA’s Evaluation and Action
  - A. How is the EPA evaluating the submitted documents?
  - B. Do the documents meet the evaluation criteria?
  - C. What are the deficiencies?
  - D. Proposed action and public comment
- III. Statutory and Executive Order Reviews

### **I. The State’s Submittal**

#### *A. What documents did the State submit?*

Table 1 lists the documents addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the California Air Resource Board (CARB).

**Table 1 - Submitted Documents**

Local Agency	Document	Adopted	Submitted
SMAQMD	Demonstration of Reasonably Available Control Technology for the 2008 Ozone National Ambient Air Quality Standard (NAAQS) (“2017 RACT SIP”)	03/23/2017	05/05/2017
SMAQMD	Negative Declaration for Control Technique Guidelines for Miscellaneous Metal and Plastic Parts Coatings (Pleasure Craft Coating Portion Only) (“Pleasure Craft Coating Negative Declaration”)	03/22/2018	06/11/2018

The submittals for the 2017 RACT SIP and Pleasure Craft Coating Negative Declaration were determined to meet the completeness criteria in 40 CFR Part 51, Appendix V, in letters dated October 31, 2017 and August 23, 2018, respectively.

*B. Are there other versions of these documents?*

There are no previous versions of the RACT SIP or negative declarations in the SMAQMD portion of the California SIP for the 2008 ozone NAAQS.

*C. What is the purpose of the submitted documents?*

Emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>) contribute to the production of ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC and NO<sub>x</sub> emissions. Sections 182(b)(2) and (f) require that SIPs for ozone nonattainment areas classified as Moderate or above implement RACT for any source covered by a Control Techniques Guidelines (CTG) document and for any major source of VOCs or NO<sub>x</sub>. The SMAQMD is subject to this requirement as it regulates the Sacramento County portion of the Sacramento Metropolitan ozone nonattainment area that was designated and classified as a Severe nonattainment area for the 2008 8-hour ozone NAAQS.<sup>1</sup> Therefore, the SMAQMD must, at a minimum, adopt RACT-level controls for all sources covered by a CTG

---

<sup>1</sup> 77 FR 30088 (May 21, 2012).

document and for all major non-CTG sources of VOCs or NO<sub>x</sub> within the ozone nonattainment area that it regulates. Any stationary source that emits or has the potential to emit at least 25 tons per year (tpy) of VOCs or NO<sub>x</sub> is a major stationary source in a Severe ozone nonattainment area (CAA section 182(d), (f) and 302(j)).

Section III.D of the preamble to the EPA's final rule to implement the 2008 ozone NAAQS discusses RACT requirements.<sup>2</sup> It states, in part, that RACT SIPs must contain adopted RACT regulations, certifications (where appropriate) that existing provisions are RACT, and/or negative declarations that no sources in the nonattainment area are covered by a specific CTG.<sup>3</sup> It also provides that states must submit appropriate supporting information for their RACT submissions as described in the EPA's implementation rule for the 1997 ozone NAAQS.<sup>4</sup> The SMAQMD's RACT SIP submittal and negative declarations provide SMAQMD's analyses of its compliance with the CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS.

The EPA's technical support document (TSD) has more information about SMAQMD's RACT SIP, negative declarations, and the EPA's evaluations thereof.

## **II. The EPA's Evaluation and Action**

### *A. How is the EPA evaluating the submitted documents?*

Generally, SIP rules must require RACT for each category of sources covered by a CTG document as well as each major source of VOCs or NO<sub>x</sub> in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2), (f)). The SMAQMD regulates the Sacramento County portion of the Sacramento Metropolitan ozone nonattainment area classified as Severe for the 2008 ozone standard (40 CFR 81.305). Therefore, SMAQMD rules must implement RACT.

States should also submit for SIP approval negative declarations for those CTGs for which they have no sources covered by the CTG, regardless of whether such negative

---

<sup>2</sup> 80 FR 12264 (March 6, 2015).

<sup>3</sup> Id. at 12278.

<sup>4</sup> Id.; 70 FR 71612, 71652 (November 29, 2005).

declarations were made in a SIP for an earlier ozone standard.<sup>5</sup> To do so, the submittal should provide reasonable assurance that no sources that fall under the CTG currently exist in the portion of the ozone nonattainment area that is regulated by the SMAQMD.

The District's analysis must demonstrate that each major source of VOCs or NO<sub>x</sub> in the ozone nonattainment area is covered by a RACT-level rule. In addition, for each CTG, the District must either demonstrate that a RACT-level rule is in place or submit a negative declaration. Guidance and policy documents that we use to evaluate CAA section 182 RACT requirements include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO<sub>x</sub> Supplement), 57 FR 55620, November 25, 1992.
5. Memorandum dated May 18, 2006, from William T. Harnett, Director, Air Quality Policy Division, to Regional Air Division Directors, Subject: "RACT Qs & As—Reasonably Available Control Technology (RACT): Questions and Answers."
6. "Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard—Phase 2," 70 FR 71612 (November 29, 2005).
7. "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements," 80 FR 12264 (March 6, 2015).

---

<sup>5</sup> 57 FR 13498, 13512 (April 16, 1992).

8. “State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA’s SSM (startup, shutdown, malfunction) Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction” (80 FR 33839) June 12, 2015 (2015 SSM SIP Action).
9. “Inclusion of Provisions Governing Periods of Startup, Shutdown, and Malfunctions in State Implementation Plans,” EPA, October 9, 2020.
10. “Withdrawal of the October 9, 2020, Memorandum Addressing Startup, Shutdown, and Malfunctions in State Implementation Plans and Implementation of the Prior Policy,” EPA, September 30, 2021.

*B. Do the documents meet the evaluation criteria?*

SMAQMD’s 2017 RACT SIP provides the District's demonstration that the applicable SIP for the SMAQMD satisfies CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS. The District based its demonstration on its analysis of SIP-approved requirements that apply to the following: (1) sources covered by a CTG, and (2) major non-CTG stationary sources of VOC or NO<sub>x</sub> emissions.

With respect to CTG sources, SMAQMD identified several CTGs with covered sources (i.e. sources covered by the CTG and operating within the nonattainment area), and provided an evaluation of the District rules it relies upon to meet RACT for these CTGs. We reviewed the District’s evaluation and agree that its rules implement RACT for the applicable CTGs. Our TSD has additional information about our evaluation of these rules.

When there are no existing sources covered by a particular CTG document, or no major non-CTG sources of NO<sub>x</sub> or VOC, states may, in lieu of adopting RACT requirements for those sources, adopt negative declarations certifying that there are no such sources in the relevant nonattainment area. Appendix A of the 2017 RACT SIP lists SMAQMD’s negative declarations for those instances where it has no sources subject to the applicable CTGs for the 2008 8-hour

ozone NAAQS. These negative declarations are listed in Table 2 below. SMAQMD concludes that it has no sources subject to these listed CTGs based on a review of its permit files, emission inventory, business listings, and consultation with District permitting and enforcement staff. We reviewed SMAQMD's list of negative declarations and California Emissions Inventory data to verify the District's conclusion that it has no stationary sources subject to the CTGs for which it has adopted a negative declaration. We agree with the District's negative declarations in the 2017 RACT SIP and propose to approve them into the SIP.

With respect to non-CTG major sources of NO<sub>x</sub> or VOC, SMAQMD identified twelve major sources exceeding the major source threshold for NO<sub>x</sub> or VOC, which is 25 tpy in Severe ozone nonattainment areas. As described in more detail in our TSD, we conclude that SMAQMD properly identified all major non-CTG sources of NO<sub>x</sub> or VOC requiring RACT. SMAQMD also identified several District rules, primarily NO<sub>x</sub> rules, that it relies upon to implement RACT at these major sources. As discussed in more detail in Section C below, we have noted certain deficiencies in several of the identified District rules, and conclude that these District rules do not fully satisfy the RACT requirement.

**Table 2 - SMAQMD Negative Declarations**

<b>CTG Document Number</b>	<b>CTG Document Title</b>
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume II: Surface Coating of Coils
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume II: Surface Coating of Paper
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume II: Surface Coating of Fabrics
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume II: Surface Coating of Automobiles and Light-Duty Trucks
EPA-450/2-77-025	Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds
EPA-450/2-77-033	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume IV: Surface Coating of Insulation of Magnet Wire
EPA-450/2-77-034	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume V: Surface Coating of Large Appliances
EPA-450/2-78-030	Manufacture of Pneumatic Rubber Tires
EPA-450/2-78-032	Factory Surface Coating of Flat Wood Paneling

EPA-450/2-78-033	Graphic Arts-Rotogravure and Flexography (Rotogravure only)
EPA-450/2-78-03	Leaks from Petroleum Refinery Equipment
EPA-450/3-82-009	Large Petroleum Dry Cleaners
EPA-450/3-83-007	Leaks from Natural Gas/Gasoline Processing Plants
EPA-450/3-83-008	Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins
EPA-450/3-84-015	Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry
EPA-453/R-94-032 61 FR 44050; 8/27/96	ACT Surface Coating at Shipbuilding and Ship Repair Facilities Shipbuilding and Ship Repair Operations (Surface Coating)
EPA-453/R-97-004 59 FR 29216; 6/06/94	Aerospace MACT and Aerospace (CTG & MACT)
EPA-453/R-06-004	Flat Wood Paneling Coatings
EPA 453/R-07-003	Paper, Film, and Foil Coatings
EPA 453/R-07-004	Large Appliance Coatings
EPA 453/R-08-003	Miscellaneous Metal and Plastic Parts Coatings (Table 5 – Pleasure Craft Surface Coating)
EPA 453/R-08-004	Fiberglass Boat Manufacturing Materials
EPA 453/R-08-005	Miscellaneous Industrial Adhesives
EPA 453/R-08-006	Automobile and Light-Duty Truck Assembly Coatings

*C. What are the deficiencies?*

EPA’s startup, shutdown and malfunction (SSM) policy, as defined in the 2015 SSM SIP Action,<sup>6</sup> notes that CAA §110(a)(2)(A) requires SIPs to include enforceable emission limitations and other control measures, means, or techniques as necessary to meet CAA requirements. The term “emission limitation” is defined in CAA §302(k) as a requirement that “limits the quantity, rate, or concentration of emissions of air pollution on a continuous basis [...]” An emission limitation or requirement that exempts a period of source operation, such as startup, cannot be considered continuous and is not consistent with CAA requirements (absent an alternative emission limitation that applies during such periods). Since such rule limits cannot be considered continuous limits given the presence of an exemption for periods of startup and shutdown, they do not implement RACT during all operating conditions, despite the level of stringency they may establish outside of startup and shutdown periods. Moreover, section 110(a)(2) of the CAA

---

<sup>6</sup> 80 FR 33839 (June 12, 2015).



requires SIP submissions to include enforceable emission limitations and other control measures, means, or techniques as may be necessary or appropriate to meet the applicable requirements of the Act. If a rule provides for an emission limitation during startup and shutdown, but that limitation is not enforceable, a state may not rely on this limit to establish RACT during startup and shutdown. Furthermore, if a rule establishes a limit during startup and shutdown, but expressly forbids the use of data generated during these times from use in establishing whether a violation occurred during these times, this restriction is not consistent with the Credible Evidence Rule.<sup>7</sup>

As discussed in more detail in our TSD, several of the District rules relied upon to implement RACT for non-CTG major sources of NO<sub>x</sub> contain provisions that are not consistent with EPA's SSM Policy. Rule 413 (Stationary Gas Turbines) contains a provision that explicitly exempts affected units from complying with rule standards during periods of startup and shutdown and does not provide for an alternative emissions limitation during such periods. Rule 411 (NO<sub>x</sub> from Boilers, Process Heaters, and Steam Generators) and Rule 419 (NO<sub>x</sub> from Miscellaneous Combustion Units) both contain monitoring provisions that preclude the use of specified data for compliance determinations during periods of startup and shutdown. The deficiencies in these three rules represent the basis for our partial disapproval of SMAQMD's 2017 RACT SIP for non-CTG major sources of NO<sub>x</sub>, and must be remedied prior to full approval of the District's RACT SIP.

*D. Proposed action and public comment*

For the reasons discussed above and explained in more detail in our TSD, the EPA proposes to partially approve and partially disapprove the SMAQMD 2017 RACT SIP. As authorized in section 110(k)(3) of the Act, we are proposing to approve the SMAQMD 2017 RACT SIP for each of the CTGs addressed either by District rule or by negative declaration, as

---

<sup>7</sup> 62 FR 8314, February 24, 1997; 40 CFR 51.212. The Credible Evidence Rule provides that a SIP may not preclude the use of any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test procedure had been performed.

well as for non-CTG major sources of VOC. Also under section 110(k)(3), we propose to disapprove the SMAQMD 2017 RACT SIP as it pertains to non-CTG major sources of NO<sub>x</sub>, based upon our conclusion that several of the District rules relied upon to implement RACT for this element contain deficiencies related to startup and shutdown. Table 3 contains a listing of each RACT element, the District rule or negative declaration relied upon to address RACT, as well as our proposed action for that RACT element.

The EPA is committed to working with SMAQMD to resolve the identified RACT deficiencies. However, should we finalize the proposed partial disapproval of the non-CTG major source NO<sub>x</sub> element of SMAQMD's 2017 RACT SIP, section 110(c) would require the EPA to promulgate a federal implementation plan (FIP) within 24 months unless we approve subsequent SIP revisions that correct the deficiencies identified in our final action. In this instance, we note that the EPA already has an existing obligation to promulgate a FIP for any RACT SIP elements that we have not taken final action to approve. This FIP obligation originates from our February 3, 2017 (82 FR 9158) finding that SMAQMD failed to submit a RACT SIP for the 2008 8-hour ozone NAAQS by the required submittal deadline. This finding of failure to submit established a FIP obligation deadline of February 3, 2019. In addition, final action on the proposed partial disapproval would trigger the offset sanction in CAA section 179(b)(2) 18 months after the effective date of a final disapproval, and the highway funding sanction in CAA section 179(b)(1) six months after the offset sanction is imposed. A sanction will not be imposed if the EPA determines that a subsequent SIP submission corrects the deficiencies identified in our final action before the applicable deadline.<sup>8</sup>

We will accept comments from the public on this proposed partial approval and partial disapproval until **[Insert date 30 days after date of publication in the *Federal Register*]**. If finalized, this action would incorporate the approved portions of the 2017 RACT SIP and

---

<sup>8</sup> Our February 7, 2017 finding of failure to submit also triggered offset sanctions and highway funding sanctions. These sanctions clocks were extinguished by SMAQMD's submittal of its 2017 RACT SIP and our October 31, 2017 and August 23, 2018 letters determining that the District's RACT SIP submittal was complete.

negative declarations into the SIP.

**Table 3 – List of RACT elements – 2008 ozone NAAQS**

<b>CTG Document Number</b>	<b>RACT Element</b>	<b>District Rule Implementing RACT</b>	<b>Negative Declaration Submitted</b>	<b>EPA Proposed Action</b>
EPA-450/R-75-102	Design Criteria for Stage I Vapor Control – Gasoline Service Stations	448 (Gasoline Transfer Into Stationary Storage Containers)		Approval
EPA-450/2-77-008	Surface Coating of Cans	452 (Can Coating)		Approval
EPA-450/2-77-008	Surface Coating of Coils		Yes	Approval
EPA-450/2-77-008	Surface Coating of Paper		Yes	Approval
EPA-450/2-77-008	Surface Coating of Fabric		Yes	Approval
EPA-450/2-77-008	Surface Coating of Automobiles and Light-Duty Trucks		Yes	Approval
EPA-450/2-77-022	Solvent Metal Cleaning	454 (Degreasing Operations)		Approval
EPA-450/2-77-025	Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds		Yes	Approval
EPA-450/2-77-026	Tank Truck Gasoline Loading Terminals	447 (Organic Liquid Loading)		Approval
EPA-450/2-77-032	Surface Coating of Metal Furniture	451 (Surface Coating of Miscellaneous Metal Parts and Products)		Approval
EPA-450/2-77-033	Surface Coating of Insulation of Magnet Wire		Yes	Approval
EPA-450/2-77-034	Surface Coating of Large Appliances		Yes	Approval
EPA-450/2-77-035	Bulk Gasoline Plants	447 (Organic Liquid Loading)		Approval
EPA-450/2-77-036	Storage of Petroleum Liquids in Fixed-Roof Tanks	446 (Storage of Petroleum Products)		Approval
EPA-450/2-77-037	Cutback Asphalt	453 (Cutback and Emulsified Asphalt Paving Materials)		Approval
EPA-450/2-78-015	Surface Coating of Miscellaneous Metal Parts and Products	451 (Surface Coating of Miscellaneous Metal Parts and Products)		Approval
EPA-450/2-78-029	Manufacture of Synthesized Pharmaceutical Products	464 (Organic Chemical Manufacturing Operations)		Approval
EPA-450/2-78-030	Manufacture of Pneumatic Rubber Tires		Yes	Approval
EPA-450/2-78-032	Factory Surface Coating of Flat Wood Paneling		Yes	Approval
EPA-450/2-78-033	Graphic Arts-Rotogravure and Flexography	450 (Graphic Arts Operations) -Flexography only	Yes - Rotogravure only	Approval
EPA-450/2-78-036	Leaks from Petroleum Refinery Equipment		Yes	Approval
EPA-450/2-78-047	Petroleum Liquid Storage in External Floating Roof Tanks	446 (Storage of Petroleum Products)		Approval
EPA-450/2-78-051	Leaks from Gasoline Tank Trucks and Vapor Collection Systems	447 (Organic Liquid Loading) 448 (Gasoline Transfer Into Stationary Storage Containers)		Approval

<b>CTG Document Number</b>	<b>RACT Element</b>	<b>District Rule Implementing RACT</b>	<b>Negative Declaration Submitted</b>	<b>EPA Proposed Action</b>
EPA-450/3-82-009	Large Petroleum Dry Cleaners		Yes	Approval
EPA-450/3-83-006	Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment	443 (Leaks from Synthetic Organic Chemical and Polymer Manufacturing)		Approval
EPA-450/3-83-007	Leaks from Natural Gas/Gasoline Processing Plants		Yes	Approval
EPA-450/3-83-008	Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins		Yes	Approval
EPA-450/3-84-015	Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry		Yes	Approval
EPA-450/4-91-031	Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry	464 (Organic Chemical Manufacturing Operations)		Approval
EPA-453/R-96-007	Wood Furniture Manufacturing Operations		Yes	Approval
EPA-453/R-94-032 61 FR 44050; 8/27/96	ACT Surface Coating at Shipbuilding and Ship Repair Facilities Shipbuilding and Ship Repair Operations (Surface Coating)		Yes	Approval
EPA-453/R-97-004 59 FR 29216; 6/06/94	Aerospace MACT and Aerospace (CTG & MACT)		Yes	Approval
EPA-453/R-06-001	Industrial Cleaning Solvents	466 (Solvent Cleaning)		Approval
EPA-453/R-06-002	Offset Lithographic Printing and Letterpress Printing	450 (Graphic Arts Operations)		Approval
EPA-453/R-06-003	Flexible Package Printing	450 (Graphic Arts Operations)		Approval
EPA-453/R-06-004	Flat Wood Paneling Coatings		Yes	Approval
EPA 453/R-07-003	Paper, Film, and Foil Coatings		Yes	Approval
EPA 453/R-07-004	Large Appliance Coatings		Yes	Approval
EPA 453/R-07-005	Metal Furniture Coatings	451 (Surface Coating of Miscellaneous Metal Parts and Products)		Approval
EPA 453/R-08-003	Miscellaneous Metal Parts Coatings Table 2 – Metal Parts and Products	451 (Surface Coating of Miscellaneous Metal Parts and Products)		Approval
EPA 453/R-08-003	Miscellaneous Plastic Parts Coatings Table 3 – Plastic Parts and Products	468 (Surface Coating of Plastic Parts and Products)		Approval

<b>CTG Document Number</b>	<b>RACT Element</b>	<b>District Rule Implementing RACT</b>	<b>Negative Declaration Submitted</b>	<b>EPA Proposed Action</b>
EPA 453/R-08-003	Miscellaneous Plastic Parts Coatings Table 4 – Automotive/Transportation and Business Machine Plastic Parts	468 (Surface Coating of Plastic Parts and Products)		Approval
EPA 453/R-08-003	Miscellaneous Plastic Parts Coatings Table 5 – Pleasure Craft Surface Coating		Yes	Approval
EPA 453/R-08-003	Miscellaneous Plastic Parts Coatings Table 6 – Motor Vehicle Materials	459 (Automotive, Truck, and Heavy Equipment Refinishing Operations)		Approval
EPA 453/R-08-004	Fiberglass Boat Manufacturing Materials		Yes	Approval
EPA 453/R-08-005	Miscellaneous Industrial Adhesives		Yes	Approval
EPA 453/R-08-006	Automobile and Light-Duty Truck Assembly Coatings		Yes	Approval
--	Non-CTG Major Sources of NOx	411 (NOx from Boilers, Process Heaters, and Steam Generators) 412 (Stationary Internal Combustion Engines) 413 (Stationary Gas Turbines) 419 (NOx from Miscellaneous Combustion Units)		Disapproval <sup>9</sup>
--	Non-CTG Major Sources of VOC	Source-specific Requirements		Approval

### III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at

<https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563:*

*Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

*B. Paperwork Reduction Act (PRA)*

---

<sup>9</sup> As described in greater detail in our Technical Support Document (Docket Item B-01), the proposed disapproval for the non-CTG major sources of NOx element is based in the deficiencies noted in Rules 411 and 413, as well as the lack of SIP-approved RACT level controls for the Mitsubishi Chemical and Carbon Fiber Composites facility due to the deficiencies noted in the submitted version of Rule 419.

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

*C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

*F. Executive Order 13175: Coordination with Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

*G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may

disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

*H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA)*

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

*J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population*

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provision of the Act and applicable federal regulations. 42 U.S.C. 740(k); 40 CFR

52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to review state choices, and approve those choices if they meet the minimum criteria of the Act. Accordingly, this proposed action partially approves and partially disapproves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law.

The District did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goals of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and indigenous peoples.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**AUTHORITY:** 42 U.S.C. 7401 *et seq.*

Dated: **March 28, 2023.**

Kerry Drake,  
*Acting Regional Administrator,*  
*Region IX.*

[FR Doc. 2023-06829 Filed: 4/4/2023 8:45 am; Publication Date: 4/5/2023]